IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1531 OF 2005

WITH

CIVIL APPLICATION NO. 3740 OF 2005

The State of Maharashtra ..Appellants

versus

Ramling A. Nagarkar (since deceased) through

Smt. Vimal R. Nagarkar & Ors ..Respondents

AND

FIRST APPEAL NO. 1532 OF 2005

WITH

CIVIL APPLICATION NO. 3741 OF 2005

The State of Maharashtra ..Appllants

versus

Deoram P. Gaidhani (since deceased) through LRs.

Baban Deoram & Ors. ..Respondents

Mr. K. K.Tated, Addl. G. P. for the Appellants.

CORAM : D. G. DESHPANDE,J.

DATE : 31ST AUGUST,2005

ORAL ORDER :

1. Heard Mr. Tated, learned Addl. G. P. for the Appellants - State.

2. Both the appeals arise out of the judgment of the Reference Court enhancing compensation from Rs.10,000/- per hectare for Jirayat Group II and Rs.11,000/- per hectare for Jirayat Group III to Rs.55,000/- per hectare.

3. Two contentions were raised by learned Addl. G. P. Firstly, that the reference under Section 18 was barred by limitation and secondly there was no basis for enhancement of compensation from Rs.10,000/- or Rs.11,000/- to Rs.55,000/-.

4. So far as the first contention of limitation is concerned, even the reference court has noted and observed that even though opportunity was given to the SLAO to produce vouchers signed by the claimants to prove the date of receipt of consideration, SLAO failed to produce any document. If that is so, question of limitation now cannot be considered and accepted because SLAO has failed to avail of the opportunity given to substantiate the contention regarding limitation.

5. So far as enhanced compensation is concerned, the reference court has relied upon the

sale deed. Event though it is a single sale deed, it is of the relevant period. As per that sale deed Exhibit 24, Rs.25,000/- were paid for the area of 45 R. The rate per hectare comes to Rs.55,500/- and the reference court has awarded the same. The reference court did not treat the land as Bagayat. The judgment is proper. No interference is called for, both the appeals are dismissed along with their Civil Applications. However, these observations are peculiar to the facts of the case, they will not be treated as precedent.

31.8.2005 (D.G. DESHPANDE, J.)